



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

Houston Medical Group

**Respondent Name**

Ace American Insurance Co

**MFDR Tracking Number**

M4-17-2743-01

**Carrier's Austin Representative**

Box Number 15

**MFDR Date Received**

May 16, 2017

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** No position statement submitted.

**Amount in Dispute:** \$1,156.71

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Upon receipt of the MDR, the bill was sent for reconsideration. Additional payment of \$16.70 for DOS 6/24/16 and \$117.69 for DOS 6/6/2016 have been issued. Attached are copies of the EORS and payment screens."

**Response Submitted by:** Downs Stanford, P.C.

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
June 6 – 29, 2016	Professional Medical Services	\$1,156.71	\$0.00

### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.20 sets out the medical billing requirements by health care professionals.
3. 28 Texas Administrative Code §134.203 sets out the reimbursement guidelines for professional medical services.
4. 28 Texas Administrative Code §102.4 establishes rules for non-Commission communications.
5. Texas Labor Code §408.027 sets out provisions related to payment of health care providers.

6. Texas Labor Code §408.0272 provides certain exceptions for untimely submission of a medical bill
7. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 193 – Original payment decision is being maintained. This claim was processed properly the first time
  - 29 – The time limit for filing has expired
  - 4 – This appeal is denied as we find the original review reflected the appropriate allowance for the service rendered. We find that no additional recommendation is warranted at this time

### **Issues**

1. Are the insurance carrier's reasons for denial or reduction of payment supported?
2. What is the rule applicable to reimbursement?
3. Is the requestor entitled to additional reimbursement?

### **Findings**

1. The requestor is seeking \$1,156.71 for professional medical services rendered from June 6, 2016 through June 29, 2016.

Procedure code 97110, service date June 9, 2016, was denied by the carrier as 29 – "The time limit for filing has expired." 28 Texas Administrative Code §133.20 (b) states in pertinent part,

Except as provided in Labor Code §408.0272(b), (c) or (d), a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided.

Texas Labor Code §408.0272(b) provides certain exceptions to the 95-day time limit for bill submission:

Notwithstanding Section 408.027, a health care provider who fails to timely submit a claim for payment to the insurance carrier under Section 408.027(a) does not forfeit the provider's right to reimbursement for that claim for payment solely for failure to submit a timely claim if:

- (1) the provider submits proof satisfactory to the commissioner that the provider, within the period prescribed by Section 408.027(a), erroneously filed for reimbursement with:
  - (A) an insurer that issues a policy of group accident and health insurance under which the injured employee is a covered insured;
  - (B) a health maintenance organization that issues an evidence of coverage under which the injured employee is a covered enrollee; or
  - (C) a workers' compensation insurance carrier other than the insurance carrier liable for the payment of benefits under this title; or
- (2) the commissioner determines that the failure resulted from a catastrophic event that substantially interfered with the normal business operations of the provider.

No documentation was found to support that any of the exceptions described in Texas Labor Code §408.0272 apply to the services in this dispute. For that reason, the health care provider was required to submit the medical bill not later than the 95th day following the date the disputed services were provided.

Texas Labor Code §408.027(a) states that "Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment."

28 Texas Administrative Code §102.4(h) provides that:

Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on:

- (1) the date received, if sent by fax, personal delivery or electronic transmission or,
- (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday.

Review of the submitted information finds no documentation that meets the above requirements to support that a medical bill was submitted within 95 days from the date the services were provided. Consequently,

the requestor has forfeited the right to reimbursement due to untimely submission of the medical bill, pursuant to Texas Labor Code §408.027(a).

2. The remaining dates of services are subject to the provisions 28 Texas Administrative Code §134.203 (c) which states in pertinent part,

To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

- (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is (year of service annual conversion factor).

The services in dispute have the following calculations of the maximum allowable reimbursement (MAR).

Date of Service	Submitted Code	Submitted Charge	Allowable	(DWC conversion factor / Medicare conversion factor multiplied by the allowable) = MAR	Carrier Paid Amount and Date
June 6, 2016	99213	\$214.63	\$74.16	\$117.69	\$117.69 paid on June 9, 2017 Draft 78103424
June 24, 2016	97110	\$278.28	\$32.95 x 3 units = \$98.85	\$52.29 / Reduced PE* + \$79.44 Total \$131.73	\$131.72 paid on June 13, 2017 Draft 76847371
June 24, 2016	97035	\$53.62	\$13.05	Reduced rate not highest PE* \$16.70	\$16.70 paid June 13, 2017 Draft 76847371
June 29, 2016	97110	\$278.28	\$32.95 x 3 units = \$98.85	\$52.29 / Reduce PE* + \$79.44 Total \$131.73	\$131.72 paid June 13, 2017 Draft 76762446
June 29, 2016	97035	\$53.62	\$13.05	Reduced rate not highest PE* \$16.70	\$16.71 paid June 13, 2017 Draft 76762446
	Total	\$878.43	\$297.96	\$414.55	\$414.54

\*As seen above a reduction is made when more than one unit of service is billed per the requirements of 28 Texas Administrative Code 143.203 (b) which states in pertinent part,

For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following:

- (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers;

The applicable Medicare payment policy is found at [www.cms.hhs.gov](http://www.cms.hhs.gov), Med Learn Matters Number MM8206 which states in pertinent part,

*Effective January 1, 2011, Medicare applied an MPPR to the Practice Expense (PE) payment of select therapy services paid under the physician fee schedule or paid at the physician fee schedule rate. Currently, the reduction is 20 percent for therapy services furnished in office and other non-institutional settings, and 25 percent for therapy services furnished in institutional settings. Effective for claims with dates of service April 1, 2013, and after, Section 633 of the American Taxpayer Relief Act of 2012 revised the reduction to 50 percent for all settings.*

**Many therapy services are time-based codes, i.e., multiple units may be billed for a single procedure. The MPPR applies to the PE payment when more than one unit or procedure is provided to the same patient on the same day, i.e., the MPPR applies to multiple units as well as multiple procedures. Full payment is made for the unit or procedure with the highest PE payment. Effective for claims with dates of service on or after April 1, 2013, full payment is made for work and malpractice and 50 percent**

***payment is made for the PE for subsequent units and procedures, furnished to the same patient on the same day.***

3. The total allowable reimbursement for the services in dispute is \$414.55. This amount less the amount previously paid by the insurance carrier of \$414.54. No additional payment is recommended.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

### ***ORDER***

Based on the submitted information, pursuant to Texas Labor Code Section 413.031, the division hereby determines the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

### **Authorized Signature**

Signature	Medical Fee Dispute Resolution Officer	Date
		July 18, 2017

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**